

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 2/26/2003 Item 3.d.

File Number  
CP 02-074

Application Type  
Conditional Use Permit

Council District  
2

Planning Area  
Edenvale

Assessor's Parcel Number(s)  
678-05-048

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Jeff Roche

Location: Southwesterly side of Eden Park Place, approximately 1,100 feet northwesterly of Silicon Valley Boulevard

Gross Acreage: 5.20

Net Acreage: 5.20

Net Density: n/a

Existing Zoning: IP-Industrial Park

Existing Use: Industrial Park

Proposed Zoning: No change

Proposed Use: Conversion of a portion of an existing industrial park building to church uses (with a maximum of 820 seats).

### GENERAL PLAN

Completed by: JR

Land Use/Transportation Diagram Designation  
Industrial Park with Mixed Industrial Overlay

Project Conformance:  
☒ Yes ☐ No  
☒ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: JR

North: Industrial Park

IP-Industrial Park

East: Coyote Creek (across Eden Park Place)

IP-Industrial Park

South: Institutional

A (PD) Planned Development

West: Industrial

IP-Industrial Park

### ENVIRONMENTAL STATUS

Completed by: JR

☒ Environmental Impact Report found complete on November 21, 2000.  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on

☐ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Completed by: JR

Annexation Title: Monterey Park No. 75-A

Date: December 27, 1977

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval  
☒ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
☐ Action  
☐ Recommendation

### APPLICANT/ OWNER

The Realty Associates Fund IV  
Attn: Regional Director  
1301 Dove Street, #860  
Newport Beach, CA 92660

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PUBLIC AGENCY COMMENTS RECEIVED

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Completed by: Jeff Roche

Department of Public Works

[See attached memorandum](#)

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Other Departments and Agencies

See attached memorandum from Fire Department and Police Department

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GENERAL CORRESPONDENCE

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See attached letters from Ruth &amp; Going and Evangel Christian Fellowship.

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ANALYSIS AND RECOMMENDATIONS

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**BACKGROUND**

This is a Conditional Use Permit to allow the conversion of a portion (32,466 square feet) of an existing industrial park building (total 59,856 square feet) to church uses. The site is located within the IP Industrial Park Zoning District. Churches are allowed with a Conditional Use Permit in the IP District. This Permit would allow a church use with up to 820 seats in the sanctuary and associated church offices and Sunday school classrooms. The remaining portion of the building (27,390 square feet) would continue to be used for industrial park purposes. This Permit will also serve as a Site Development Permit for minor changes to the exterior of the building.

The site is located on the periphery of the Edenvale Redevelopment Area. Surrounding land uses include Coyote Creek to the east (across Eden Park Place), institutional uses to the south, and industrial park uses to both the west and north.

**ENVIRONMENTAL REVIEW**

The Director of Planning has determined that pursuant to Section 15162 of the CEQA Guidelines, the environmental impacts of this project were addressed by a Final EIR entitled, "Edenvale Redevelopment Project," and certified on November 21, 2000, by City Council Resolution No. 70021.

**GENERAL PLAN CONFORMANCE**

The project site is designated Industrial Park with a Mixed Industrial Overlay on the City of San Jose General Plan Land Use/Transportation Diagram. The Mixed Industrial Overlay designation was created by the City Council to identify industrial areas where a mix of industrial and non-industrial uses were deemed to be appropriate and to distinguish the areas that should remain exclusively industrial. The Overlay was applied to this site and area in recognition of the non-industrial uses existing on this site and in the surrounding area. For these reasons, staff has concluded that the proposed use is consistent with the San Jose 2020 General Plan Land use/ Transportation Diagram.

## ANALYSIS

The main issue associated with this Permit is conformance to City Council Policy 6-21, “*Church Location Policy*”, and Compatibility with Adjacent Use.

### Church Location Policy.

The Policy states that churches should not be a first priority for development in industrially designated areas. The City Council’s action to apply the Mixed Industrial Overlay to this area designated the site as one where non-industrial uses could be considered on a permanent basis.

The Policy states that churches should be located in an area that will not negatively impact residential living environments. As noted elsewhere in this report, there are no residential uses nearby to this site and the surrounding area is planned for industrial park uses. The church is proposed to occupy a portion of an existing industrial park building, and no significant exterior changes are proposed, further helping the new church blend into the existing neighborhood.

The Policy also states that proposed church uses should be evaluated on the ability to provide the required on-site parking. As shown on the project plans, the project meets Code requirements for parking for church uses (1 space per four seats). The 338 on-site parking spaces provide 205 spaces needed to serve the 820-seat church facility with more than adequate parking remaining to serve industrial park or office uses in the remainder of the building.

### Compatibility with Adjacent Use

The church will be required to install fire separation walls and other Building Code required measures to provide an appropriate interface between the church assembly area and the industrial park uses anticipate to occupy the remainder of the building. A condition has been included in the Draft Permit requiring that the future use, handling or storage of hazardous materials in the remainder of the building be subject to additional permitting as deemed necessary by the Director of Planning. Based on these measures, staff concludes that the proposed church will be compatible with adjacent uses.

### Conclusion

For all of these reasons, staff has concluded that the project is in conformance with City Council Policy 6-21, Church Location Policy.

## PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 300 feet of the project site. Staff has been available to discuss the proposal with members of the public.

## RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Industrial Park with Mixed Industrial Overlay on the adopted San José 2020 General Plan Land Use/Transportation Diagram.

2. The project site is located in the IP-Industrial Park Zoning District.
3. Under the provisions of Section 15162 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Director of Planning has determined that the environmental impacts of this project were addressed by a Final EIR entitled, "Edenvale Redevelopment Project," and certified on November 21, 2000, by City Council Resolution No. 70021.
4. The project site is located in the Edenvale Redevelopment Area. The size of the site is 5.20 acres and surrounding land uses are industrial park to the west and north, Coyote Creek (across Eden Park Place) to the east, and institutional uses to the south.
5. This Permit would allow the conversion of approximately 32,466 square feet of an industrial park building (total of 59,856 square feet) to church uses. The remainder of the building (approximately 27,390 square feet) would be used for industrial park uses. There are no significant exterior changes proposed by this Permit.
6. The proposed church would have a maximum of 820 seats. There are a total of 338 on-site parking spaces to serve the building. Of the total 338 parking spaces, 205 parking spaces would be necessary to serve the proposed church, leaving a total of 133 parking spaces to serve the remainder of the building. The remaining industrial park square footage would require 94 parking spaces under the Code requirement of 1 space per 250 net square feet for office uses.
7. As conditioned, the church will be required to install fire separation walls and other Building Code measures to provide an appropriate interface between the church assembly area and the industrial park uses anticipated to occupy the remainder of the building.
8. As conditioned, the project will have a requirement that the future use, handling or storage of hazardous materials in the remainder of the building be subject to additional permitting, as deemed necessary by the Director of Planning and Fire Chief.
9. The City of San Jose has a Council Policy (6-21), *Church Location Policy*. The Policy states churches should not be considered as a first priority for development in industrially designated areas. It also states that approval of churches should be evaluated on the ability to provide the required on-site parking.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is in conformance with City Council Policy (6-21), *Church Location Policy*.
5. The proposed project is providing sufficient parking to accommodate the church use.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

### CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

### CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Evangel Christian Church," dated January 21, 2003, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
5. **Roof Equipment.** All new roof equipment shall be screened from view.
6. **Sign Approval.** No new signs are approved at this time. All new proposed signs shall be subject to approval by the Director of Planning.
7. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set. Doors and windows shall match the existing materials and colors.
8. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-5616) to the satisfaction of the Director of Public Works:
  - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
  - b. *Inlet Filters.* The project developer shall install inlet filters in all onsite storm drainage inlets not served by a vegetative swale. These filters shall be installed, maintained and replaced by a qualified consultant hired by the property owner. Copies of all inspection and maintenance records shall be provided to the City upon request. The project developer shall implement a maintenance program for these inlet filters that includes but is not limited to the following measures:

Installation. The inlet filters shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owner.

Maintenance Record. The property owner must keep a record available for inspection on the project site of all inspections and maintenance of the inlet filters.

Regular Sweeping. Paved surfaces subject to runoff shall be swept regularly during dry periods to remove dirt, silt and other loose debris.

Regular Inspections. The inlet filters shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.

Replacement of Absorbent Material. The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.

Disposal of Used Absorbent Material. Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.

Replenishment of Absorbent Materials Supply. The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent material plus a reserve to handle emergencies.

9. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
10. **Use, Handling or Storage of Hazardous Materials.** The use, handling or storage of hazardous materials on the subject site shall be subject to further permitting as deemed necessary by the Director of Planning.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
13. **Police Issues.** The following requirements shall be provided to the satisfaction of the Chief of Police
  - a. *Address Numbers.* All buildings shall be clearly mark by address numbers.
  - b. *Exterior Doors.* All exterior doors that are alarmed shall be identified by numbers and zone.
  - c. *Lighting.* All exterior doors and awning shall be lighted.
  - d. *Security Hardware.* The project developer shall install adequate security hardware to the satisfaction of the Chief of Police and Chief Building Official.

14. **Street Number Visibility.** Street number of the buildings shall be easily visible from the street at all times, day and night.
15. **Fire Flow.** Required fire flow for the site is 4,500 g.p.m., or as specified in writing from the Fire Department.
16. **Means of Egress.** All means of egress, including locking devices, special door controls, hardware, and door identification markings, shall comply with Article 12 of the Uniform Fire Code, and are subject to review and approval by the Fire Department, to the satisfaction of the City of San Jose, Fire Chief.
17. **Occupancy Separations/Construction Type.** The project developer shall provide occupancy separations and construction type per the adopted Building and Fire Codes, to the satisfaction of the City of San Jose, Fire Chief and Chief Building Official.
18. **Fire Alarms and Sprinklers.** The project developer shall install a fire alarm system and extend sprinklers within the building, to the satisfaction of the City of San Jose, Fire Chief.
19. **Maximum Number of Seats.** The proposed church shall have a maximum of 820 seats.
20. **Building Permits.** The applicant shall obtain a building permit for the proposed church assembly use to implementation of the use. Prior to the issuance of a building permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* The permit file number, CP 02-074, shall be printed on all construction plans submitted to the Building Division.
  - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - c. *American With Disabilities Act.* The applicant shall provide appropriate access as required by the American With Disabilities Act (ADA).

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:



- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.
- 
- c: Gerry De Young & Mike Sheehy, Ruth & Going, Inc., 2216 The Alameda, Santa Clara, CA 95050  
Chip Reynolds, Evangel Christian Fellowship, P.O. Box 28510, San Jose, CA 95159-8510  
David Austin Smith, 198 Joaquin Circle, Danville, CA 94526  
Engineering Services

JR:/207-10